



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
FREEDOM OF INFORMATION ACT BRANCH
Washington, D.C. 20570

Via email

November 2, 2022

Re: FOIA Request NLRB-2022-0001864

Dear Mr. James B. Sherk (America First Policy Institute):

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on September 9, 2022, in which you seek “copies of all petitions for an RC or RD election that were filed with the NLRB, but were denied or an election was otherwise not held because the petition was filed while a collective bargaining agreement was in effect. i.e. election petitions that were rejected under the NLRB’s ‘contract bar doctrine’” for fiscal years 2018 through 2022. You assumed financial responsibility for the processing of your request in the amount of \$37.00. You also requested a fee waiver.

We acknowledged your request on September 9, 2022. In an email communication with a member of the FOIA staff that same day, you clarified that you also sought disposition letters to the responsive petitions. In subsequent communications via phone and email on October 27, 2022, you further narrowed your request to Fiscal Year 2018.¹

Pursuant to the FOIA, searches were conducted, for the Fiscal Year 2018, using the Agency’s custom document search tool (Integrated Search, or “iSearch,”) for any RD and RC cases containing dismissal letters, withdrawal letters, or other disposition records that contain the terms “contract bar” or “window period.” These searches located 89 pages of responsive, releasable records, which are attached.

As indicated in our September 9 communication to you, we advised you that our casehandling system does not track “contract bar” as a field for representation cases. The attached records are the results of keyword searches, which may not have captured the entire universe of representation cases involving the contract bar issue. As such, the records reflect the best available information that can be readily compiled about cases where contract bar was at issue as of the date the search queries were ran.

¹ NLRB-2023-000215, NLRB-2023-000217, NLRB-2023-000218 and NLRB-2023-000220 later filed to cover Fiscal Years 2019 through FY2022, and those requests are pending and being processed.

After a review, I have determined that portions of the attached records are exempt from disclosure under Exemptions 6 and 7(C) of the FOIA (5 U.S.C. § 552(b)(6) and (b)(7)(C)). Specifically, redactions have been made to protect the privacy interests of an individual named in the records. These redactions were made pursuant to FOIA Exemption 6, which protects personally identifiable information, the release of which would constitute a clearly unwarranted invasion of personal privacy; and FOIA Exemption 7(C), which protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy. 5 U.S.C. § 552(b)(6) and (b)(7)(C).

For the purpose of assessing fees, we have placed you in Category C, as a representative of the news media, in that you qualify as a person “actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.” NLRB Rules and Regulations, 29 C.F.R. § 102.117(d)(1)(vii). Accordingly, there is no charge assessed for this request. Given your placement as a news media requester, your request for a fee waiver is moot.

You may contact Teresita Sanabria, the FOIA Specialist, who processed your request, at (202) 273-4000 or by email at Teresita.Sanabria@nrlb.gov, as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the FOIA Specialist, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami
FOIA Public Liaison
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: FOIAPublicLiaison@nrlb.gov
Telephone: (202) 273-0902
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services
National Archives and Records Administration

November 2, 2022

Page 3

8601 Adelphi Road-OGIS
College Park, Maryland 20740-6001
Email: ogis@nara.gov
Telephone: (202) 741-5770
Toll free: (877) 684-6448
Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt
Chief FOIA Officer
National Labor Relations Board
1015 Half Street, S.E., 4th Floor
Washington, D.C. 20570
Email: DLCFOIAAppeal@nrlrb.gov

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the FOIA Specialist, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

/s/ Synta E. Keeling

Synta E. Keeling
FOIA Officer

Attachment: (89 pages)